

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

THE SCOTTS COMPANY LLC,

Plaintiff,

vs.

Civil Action 2:06-CV-899
Judge Graham
Magistrate Judge King

LIBERTY MUTUAL INSURANCE
COMPANY,

Defendant.

OPINION AND ORDER

This matter is before the Court on *Liberty Mutual Insurance Company's Emergency Motion and Memorandum in Support of Motion for Protective Order* ("Defendant's Motion for Protective Order"), Doc. No. 34, and on *Scotts' Memorandum in Opposition to Defendant's Emergency Motion for Protective Order and Scotts' Memorandum in Support of Its Expedited Motion to Compel, Enter Expedited Deposition Order, and Award Sanctions* ("Plaintiff's Motion to Compel"), Doc. No. 44. For the reasons that follow, defendant's motion is **GRANTED** and plaintiff's motion is **GRANTED** in part and **DENIED** in part.

Plaintiff noticed the four depositions that are the subject of *Defendant's Motion for Protective Order* to be held on April 9, 2007, April 10, 2007, April 18, 2007, and April 19, 2007. Defendant requests protection from these four depositions, arguing that plaintiff knew that lead defense counsel is unavailable in April. In response, plaintiff has agreed to forgo the April 9 and April 10 depositions, but asks that defendant proceed with the April 18 and April 19 depositions

and to agree to dates certain for the two other depositions and that plaintiff be awarded sanctions for defendant's failure to cooperate in the scheduling of the depositions.

After careful review of the parties' motions and memoranda, and exhibits attached thereto, the Court **ORDERS** that all four depositions scheduled for April 2007 are continued to dates to be agreed upon by counsel, but to begin no later than May 14, 2007. No further accommodation will be made by the Court for attorney schedules. Defendant has capable local counsel who must be utilized if any further attorney absences interfere with depositions in this action. The Court further concludes that an award of sanctions is unwarranted.

WHEREUPON, in light of the foregoing, *Defendant's Motion for Protective Order*, Doc. No. 34, is **GRANTED** and *Plaintiff's Motion to Compel*, Doc. No. 44, is **GRANTED** in part and **DENIED** in part in accordance with this *Opinion and Order*.

April 13, 2007

s/Norah McCann King
Norah M'Cann King
United States Magistrate Judge